

Oct 28, 2019

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

WILLIAM M. JULIAN,

Petitioner,

v.

JEFFERY A. UTTECHT,

Respondent.

2:19-cv-202-SAB

ORDER DISMISSING ACTION

By Order filed August 15, 2019, the Court directed Petitioner to show cause why his habeas challenge to a 1998 guilty plea to first degree child molestation resulting in a 57-month sentence was not time-barred under 28 U.S.C. § 2244(d)(1). ECF No. 9. Petitioner, a prisoner at the Coyote Ridge Corrections Center, is proceeding *pro se* and *in forma pauperis*. The Court has not directed service of the petition on Respondent. Petitioner timely filed a response. ECF No. 10.

In his federal habeas petition, Plaintiff asserts that on July 9, 2014, a judicial officer ruled in a 3.5 hearing in a different state court criminal proceeding that Petitioner's 1998 custodial confession was coerced. ECF No. 1 at 6, 28. Based on this ruling, Petitioner now seeks to challenge his 1998 guilty plea.

Petitioner invites the Court to consider that "another matter" (*i.e.*, his trial,

1 sentence and appeal following the 3.5 hearing on July 9, 2014) delayed the
2 commencement of the federal limitations period under 28 U.S.C. § 2244(d)(2).
3 ECF No. 10 at 1. Because, under the terms of the statute, neither the 2015 trial nor
4 2016 appeal would constitute a “collateral review with respect to the pertinent
5 judgment or claim” (*i.e.*, a 1998 coerced confession), they could not toll the federal
6 limitations period under 28 U.S.C. § 2244(d)(2).

7 Therefore, even if the Court could infer that the July 9, 2014 ruling in a
8 separate criminal matter somehow delayed the commencement of the federal
9 limitations period under 28 U.S.C. § 2244(d)(1)(D), the limitations period would
10 have expired a year later, on July 9, 2015. The fact Petitioner was not “inspired” to
11 conduct legal research until June 2018, ECF No. 10 at 2, does not warrant
12 equitable tolling under *Holland v. Florida*, 560 U.S. 631, 649 (2010).

13 Accordingly, **IT IS ORDERED:**

14 1. Petitioner’s Petition for Writ of Habeas Corpus, ECF No. 1, is

15 **DISMISSED with prejudice** as time barred under 28 U.S.C. § 2244(d).

16 2. All pending motions are denied as moot.

17 **IT IS SO ORDERED.** The Clerk of Court shall enter this Order, enter
18 judgment, provide copies to Petitioner, and **CLOSE** this file. The Court certifies
19 there is no basis upon which to issue a certificate of appealability. 28 U.S.C. §
20 2253(c); Fed. R. App. P. 22(b).

21 **DATED** this 28th day of October 2019.



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A handwritten signature in blue ink that reads "Stanley A. Bastian". The signature is written in a cursive, flowing style.

27 Stanley A. Bastian
28 United States District Judge